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EXAMINER

LE, KAREN L

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/876,515
Filing Date: June 07, 2001
Appellant(s): DAVIES ET AL.

DAVIES ET AL.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/16/07 appealing from the Office action
mailed 8/11/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,782,253	Shteyn et al.	8-2004
6,311,060	Evans et al.	10-2001

5,835,861	Whiteside	11-1998
6,169,498	King et al	1-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteside (U. S. 5,835,861) in view of King et al (U.S. 6,169,498).

Regarding claims 1, 6, 8, 10 and 11, Whiteside teaches a communications system comprising at least one beacon device (Fig. 1, billboard 20) capable of wireless message transmission (Col. 2, lines 14-18) and at least one portable device (Fig. 1, wireless telephone 10) capable of receiving such a message transmission (Col. 2, lines 54-55 and lines 35-39), wherein the beacon is arranged to broadcast a series of inquiry messages each in the form of a plurality of predetermined data fields arranged according to a first communications protocol (Col. 2, lines 35-39). The beacon is further arranged to add to each inquiry message prior to transmission an additional data field, and wherein the at least one portable device is arranged to receive the transmitted inquiry messages and read data from said additional data field (Col. 2, lines 35-39).

Whiteside does not teach the additional data field including location information. However King teaches the additional data field including location information (Col. 3, lines 54-56). King teaches a method for communicating location-specific messages that have a content that is related to a particular geographical location within a facility. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to incorporate King's location information into Whiteside's messages in order to provide additional data field including location information. This feature is old and popular in telecommunication system. Whiteside messages may have any type of data without departing from the spirit of Whiteside's invention. The location information represents helpful and useful data.

Regarding claims 2-3 and 12-13, Whiteside teaches the beacon is arranged to add said additional data field at the end of a respective inquiry message wherein the beacon is arranged to include an indication in one of said predetermined data fields, said indication denoting the presence of said additional data field (col. 2, lines 35-39).

Regarding claims 4, 9 and 14, Whiteside does not teach a system wherein said first communications protocol comprises Bluetooth messaging. However, Bluetooth is extremely old and well known in the wireless technology. Bluetooth enables devices such as portable computers, cell phones, and portable handheld devices to connect to each other and to the Internet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the Bluetooth to enable data delivery through beacons.

Regarding claims 5 and 7, Whiteside does not teach a system wherein a special Dedicated Inquiry Access Code (DIAC) is used to indicate the presence of location information in the additional data field. Wireless messaging system employs frequency

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hopping, and further wherein location data is sent on each frequency used for inquiry message broadcasts. However, DIAC is old and well known in the Bluetooth specification. Normally, a unit adapted to communicate according to the Bluetooth specification receiving an inquiry message, including a general inquiry access code (GIAC) or an appropriate Dedicated Inquiry Access Code (DIAC), may respond by sending an inquiry response message. The inquiry response message is actually a frequency hop synchronization packet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the DIAC to indicate the present of location information in the additional data field.

(10) Response to Argument

Regarding Appellant's statement (Brief, page 5 and 7) that "Whiteside does not teach or suggest a beacon arranged to broadcast a series or inquiry messages that are in the form of plurality of predetermined data field arranged according to a first communications protocol" or that "the beacon is further arranged to add to each inquiry message prior to transmission an additional data field". Examiner respectfully submits that Whiteside does teach broadcast inquiry messages in addition to broadcast advertising information and teaches the inquiry messages being in the form of a plurality of predetermined data fields such as a bank interest rate and current production cost (Col. 2, lines 35-36). King teaches a method for communicating location-specific messages that have a content related to a particular geographical location within a facility. Whiteside teaches broadcast bank interest rate and current production cost in

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addition to advertising information. Thus, location message of King is simply one of the items in Whiteside's broadcasting information. King is the secondary reference and it does not have to be bodily incorporated in the primary reference. The claims are mainly functional or descriptive language and therefore read on the prior art. For example, claim one is a system claim and only requires a system with a beacon that transmits a message and a mobile unit that can receive the message. The remainder of the claim recites only the content of the message. Therefore, the claim reads on many systems that have those two components and the functionality. The claimed invention does not recite any special components that form a special message other than those components included in the claim.

Regarding Appellant's statement (Brief, page 8) that Whiteside does not teach or suggest "communication protocol comprises Bluetooth messaging". Examiner respectfully submits that Bluetooth is extremely old and well known in the wireless technology, also known as IEEE 802.15.1, that enables devices such as portable computers, cell phone, and portable handheld devices to connect to each other and to the Internet. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include Bluetooth into Whiteside's system to enable data delivery through beacons. Applicant did not invent the Bluetooth technology which may be used for any short range wireless communications. See Appellant's argument which refers to IEEE 802.15.1 (Brief, page 8, line 9).

Regarding Appellant's statement (Brief, pages 8 and 9, claims 5 and 7) that Whiteside does not teach or suggest " a special Dedicated Inquiry Access Code (DIAC)

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is use to indicate the presence of location information in the additional data field".

Examiner respectfully submits that DIAC is old and well known in the Bluetooth specification. Normally, a unit adapted to communicate according to the Bluetooth specification receiving an inquiry message, including a general inquiry access code (GIAC) or an appropriate Dedicated Inquiry Access Code (DIAC), may respond by sending an inquiry response message. The inquiry response message is actually a frequency hop synchronization packet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the DIAC to indicate the present of location information in the additional data field. Also, numerous other arrangements may be devised by one of ordinary skill in the art without departing from the scope of Whiteside. It is noted that Appellant argued that the use of Bluetooth and DIAC is not taught by the references, but Appellant has not challenged the Examiner's position that such is old and well known. Again, IEEE.15.1 is referenced in the Appeal brief (page 8, line 9).

Regarding Appellant's statement (Brief, page 9, claim 6) that Whiteside does not teach or suggest, "The presence of location information in the additional data field is indicated with header information appearing in the additional data field". Examiner respectfully submits that this is only descriptive language that explains how to arrange the message and what is included in the message.

Regarding Appellant's statement (Brief, page 10, claim 9) that Whiteside does not teach "the receiver is configured to receive messages according to Bluetooth protocols". Examiner respectfully submits that Numerous other arrangements may be

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devised by one of ordinary skill in the art without departing from the scope of Whiteside. For example, infrared receiver would be replace in the wireless telephone by its RF circuitry and antenna (See Col. 3, lines -9). Again, Bluetooth is extremely old and well known in the wireless technology. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include Bluetooth into Whiteside's system to enable data delivery through beacons.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Karen Le



May 9, 2007

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